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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re LAYLA J., et al., Persons Coming  
Under the Juvenile Court Law.

B268117

(Los Angeles County  
Super. Ct. No. DK07511)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

CHRISTOPHER J.,

Defendant and Appellant.

APPEAL from a judgment and orders of the Superior Court of Los Angeles  
County, Debra L. Losnick, Referee. Affirmed.

Julie E. Braden for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County  
Counsel, and Tracey M. Blount, Deputy County Counsel, for Plaintiff and Respondent.

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## **INTRODUCTION**

Father appeals the juvenile court's judgment finding jurisdiction over his daughters, nine-year-old Layla and eight-year-old Aliyah, pursuant to Welfare and Institutions Code section<sup>1</sup> 300, subdivisions (a), (b), and (j), and from the related dispositional orders. Father solely argues that jurisdiction was not supported by substantial evidence. We affirm because Father's history of violent and inappropriate discipline supported the court's finding there was a substantial risk that Layla and Aliyah would suffer intentional, serious physical harm by Father.

## **FACTS AND PROCEDURAL BACKGROUND**

At the time the children came to the attention of the Department of Children and Family Services (DCFS), Mother and Father ended their relationship and the children lived with Father and their younger half-brother, Malik.<sup>2</sup> In August 2014, DCFS began investigating the family after then-seven-year-old Layla disclosed to a teacher that Father "whooped" her and caused a two-inch bruise on her right thigh. About a week later, Layla went to school with scratches on her face and stated that Father caused the scratches because she did not do her homework. Father denied causing the bruise and the scratches, although he admitted that he spanked her with an open hand on both occasions. Following her reports of Father's abuse, Layla changed her story several times. All three children reported that Father punished them by "whooping" them with a belt.

Mother appeared to have substance abuse and mental health issues. Father used alcohol and marijuana, and the children were aware of his use. On multiple occasions, Father appeared to be under the influence when interacting with DCFS personnel. Father also has a history of domestic violence occurring in front of the children. In July 2014, Father choked Mother until she almost passed out in the children's presence. In 2010, Father broke a window with Mother's head. In relation to the 2010 incident, Father was convicted of domestic violence and ordered to complete anger management classes,

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<sup>1</sup> All subsequent statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Malik is not at issue in this dependency case.

which he failed to do. Layla and Aliyah both reported that they saw Father pushing and slapping his current girlfriend.

Based on the physical abuse of the children, the domestic violence in front of the children, and the substance abuse, DCFS petitioned the court to find jurisdiction over the children pursuant to section 300, subdivisions (a), (b), and (j). Although the children were initially left in their Father's custody, the court detained them in December 2014, sustaining a section 385 petition based on an incident where Father bruised Layla's neck by grabbing and pulling her sweatshirt after she insisted on wearing high heels to school.

In September 2015, the juvenile court found jurisdiction over Layla and Aliyah. The court sustained two counts under section 300, subdivision (a), finding that both children were at risk of harm from Father based on the domestic violence and the inappropriate disciplining of Layla. The court sustained two counts under subdivision (b) based on Father's physical abuse of Layla and domestic violence. Lastly, the court sustained one count under subdivision (j), finding that Aliyah was at risk of harm because of the physical abuse inflicted on Layla. The court ordered the children to be suitably placed, DCFS to provide reunification services for the parents, and the parents to participate in a court ordered case plan.

### **DISCUSSION**

Father appeals arguing that the court erred in finding jurisdiction over Layla and Aliyah pursuant to section 300, subdivisions (a), (b), and (j). We review the juvenile court's jurisdictional findings for substantial evidence. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966.)

"Substantial evidence is relevant evidence which adequately supports a conclusion; it is evidence which is reasonable in nature, credible and of solid value." (*In re R.C.* (2012) 210 Cal.App.4th 930, 941.) Although substantial evidence may consist of inferences, the inferences " 'must be "a product of logic and reason" and "must rest on the evidence" [citation]; inferences that are the result of mere speculation or conjecture cannot support a finding [citations].' " (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393-1394, *italics omitted.*) Conflicts in the evidence and reasonable inferences are resolved in favor

of the prevailing party. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.) “[I]ssues of fact and credibility are questions for the trier of fact.” (*Ibid.*)

When a section 300 petition alleges multiple subdivisions, “ ‘a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence.’ ” (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We proceed with our jurisdictional analysis under section 300, subdivision (a), which authorizes jurisdiction if the “child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child’s parent or guardian.” A substantial risk of serious future injury may be evidenced by “the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm.” (*Ibid.*) The statute clarifies that “ ‘serious physical harm’ does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury.” (*Ibid.*)

Here, the court sustained allegations that Father physically abused Layla by striking her with his hand and inflicting a bruise to her right thigh, and that both Layla and Aliyah were at risk of physical harm and danger because of Father’s physical abuse. We conclude substantial evidence supported these allegations and the assumption of jurisdiction under subdivision (a).

Layla repeatedly reported that Father “whoops” and “beats” her and her siblings with his hand and belt. Even after DCFS involvement, Aliyah and half-brother Malik stated that Father continued to discipline them with a belt. At the outset of this case, DCFS observed a visible bruise to Layla’s right thigh, which Layla attributed to Father “whooping” her. When interviewed about Layla’s injuries, Father admitted that he spanked Layla with an open hand over her clothing several times for not cleaning her room, but denied causing the bruise. Shortly thereafter, Layla showed up to school with scratches on her face and reported that Father had his hand over her face and caused the scratches. Several months later, Father grabbed and pulled Layla by the hood of her

sweatshirt, choking her and obstructing her ability to breathe. When Layla screamed in response, Father covered her mouth. Father pulled her sweatshirt with enough force that Layla had three lateral bruises on her neckline, consistent with the abuse she described. Father admitted that he grabbed her sweatshirt when Layla insisted on wearing high heels to school. In sum, despite DCFS involvement, Father continued to inappropriately discipline and injure Layla.

Father's violent disposition was also evidenced by his domestic violence toward Mother and his girlfriend. Father choked Mother until she almost passed out in the children's presence July 2014. In 2010, Father broke a window with Mother's head. In relation to the 2010 incident, Father was convicted of domestic violence and ordered to complete anger management classes, which he has failed to do. The children also observed Father pushing and slapping his girlfriend.

We conclude that there was substantial evidence of a severe threat to the children because Father repeatedly engaged in escalating levels of inappropriate discipline toward Layla. His violent tendencies and uncontrolled anger permeated his familial relationships. At minimum, Father's violent behavior toward the children and his aggressive disposition show that there was a substantial risk that Layla and Aliyah would suffer intentional, serious physical harm at Father's hands. (See *In re N.M.* (2011) 197 Cal.App.4th 159, 162–163, 169 [although father did not seriously injure daughter when he started to drive away while girl was reaching into truck's cargo area, incident was part of larger pattern of physical abuse].)

Citing *In re Isabella F.* (2014) 226 Cal.App.4th 128, Father asserts that the facts of his case did not constitute serious physical harm or risk of such harm. In *In re Isabella F.*, the court concluded that the child was not within the "serious physical harm" dependency jurisdiction provision based on an single incident in which child reported to school employees that her mother hit her in the face, grabbed her by the neck, and locked her in the bathroom when child resisted going to school. (*Id.* at pp. 131,138-139.) The court reasoned that although mother interacted inappropriately with child that morning, the child's injuries were not significant, the incident was isolated, and the mother did not

have a history of such behavior. (*Id.* at p. 139.) Unlike *In re Isabella F.*, Father’s abuse was not isolated and occurred on multiple occasions toward his children. As explained above, Father’s long history of abuse evidenced a substantial risk that Layla and Aliyah would suffer intentional, serious physical harm in his care.

Father complains that the court, in sustaining the section 300 petition, relied on the sweatshirt-choking incident, which was not alleged in the petition. Yet, Father did not challenge the sufficiency of the pleadings below and he may not challenge them now for the first time on appeal. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1123; *In re A.R.* (2014) 228 Cal.App.4th 1146, 1154.) Furthermore, “[i]f the jurisdictional findings are supported by substantial evidence, the adequacy of the petition is irrelevant. [Citations.] The only exception occurs when a parent claims a petition fails to provide actual notice of the factual allegations. Unless the alleged factual deficiencies result in a miscarriage of justice, the reversal of a jurisdictional order supported by substantial evidence is unwarranted.” (*In re Javier G.* (2006) 137 Cal.App.4th 453, 458–459.) Father clearly had notice of the sweatshirt-choking allegation as it was part of the section 385 petition. There has been no miscarriage of justice.

To the extent Father asserts his denials of the abuse show that he did not cause bruising on Layla, argues he did not intend to hurt her, and contends the children’s inconsistent statements prove that there was no abuse, Father is essentially asking us to reweigh the evidence and to substitute his judgment for that of the trial court. We may not reweigh or express an independent judgment on the evidence. (*In re Laura F.* (1983) 33 Cal.3d 826, 833.) In this regard, issues of fact and credibility are matters for the dependency court alone. (*In re Amy M.* (1991) 232 Cal.App.3d 849, 859-860.) As stated above, substantial evidence supports the juvenile court’s ruling as to jurisdiction.

As the record contains sufficient evidence to sustain the dependency petition under section 300, subdivision (a), we affirm the court’s judgment finding jurisdiction over the children and related disposition orders.

## **DISPOSITION**

The juvenile court's judgment and orders are affirmed.

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HOGUE, J.\*

We concur:

EDMON, P. J.

LAVIN, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.